IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.3284 OF 2006

In

APPEAL NO.648 OF 2006

In

NOTICE OF MOTION NO.1008 OF 2005

In

SUIT NO.2715 OF 2004

Chandrabala Premji Dholi & Ors. : Appellants
(Orig.Defendants)

V/s.

Bhargav Dilip Dholi : Respondent
(Orig. Plaintiff)

...

Mr.Nitin Thakkar with Mr.Tejas Vora and Mr.Bharat Joshi for the appellants.

Mr.A.P.Rege for the respondent.

...

CORAM : R.M.LODHA & S.A.BOBDE,JJ.

DATE : SEPTEMBER 26, 2006.

P.C.

1. Prima facie, it appears to us that the appointment of Court Receiver, in the facts and circumstances of the case, was uncalled for. There is no material placed by

the plaintiff to establish that the properties mentioned in exh.'A' form part of the coparcenary of the deceased Premji Velhi Dholi. Merely because Premji Velhi Dholi happened to be one of the partners in the three firms, the defendant nos.16, 17 and 18, it cannot lead to the conclusion that the properties mentioned in exh.'A' were purchased from the coparcenary headed by Premji Velhi Dholi. The impugned order, in our opinion, deserves to be stayed.

2. We, accordingly, stay the operation of the order dated 1.8.2006.

3. We record and accept the statement of the senior counsel for the appellants that the properties mentioned at sr. nos.1 and 4 of exh.'A' (page 82) shall not be transferred, disposed of or encumbered, pending the appeal, without obtaining the leave of the Court.

R.M. LODHA, J.

S.A. BOBDE, J.